

BENJAMIN S. POPE.

MARCH 23, 1860.—Ordered to be printed.

Mr. TAPPAN, from the Committee on Claims, made the following

REPORT.

The Committee on Claims, to whom was referred the petition of Benjamin S. Pope, "praying for indemnity for the loss of his ship and cargo in 1810," have had the same under consideration, and beg leave to report:

That the petitioner was a merchant in the city of Savannah, Georgia, in connexion with one Andrew Knox, under the firm name of Knox & Pope. In the year 1811 they fitted out their ship "Eleanor," and sent her on a voyage with a valuable cargo, bound for Bordeaux, in France. The "Eleanor" was captured by the British man-of-war "Medusa," and with the cargo and crew carried into a British port, and in the month of July condemned by a British court of admiralty, under the "British orders in council." By reason of this condemnation the owners lost about \$60,000, and for which the petitioner asks indemnity.

The ground upon which this claim is placed is, "that by reason of a proclamation of the then President of the United States, bearing date November 2, 1810, and in sole reliance on the assurance contained in said proclamation, to the effect that the Berlin and Milan decrees had been rescinded, and as a consequence that the 'British orders in council,' which were claimed by the British government to be only retaliatory of said decrees, would no longer be enforced." If the facts as thus stated by the petitioner were true—if the President of the United States had proclaimed that the Berlin and Milan decrees had been rescinded, there might possibly arise in this case some basis for a claim; but the petitioner has misconceived the facts involved in the case. By the Berlin and Milan decrees, France was violating the neutral commerce of the United States. England, by the retaliatory policy which she adopted, did the same thing. This aroused the American people, and on May 1, 1810, Congress passed an act, in self-defence, prohibiting any British or French armed vessel from entering the harbors or waters under the jurisdiction of the United States. The act, however, provides that in case either Great Britain or France

should, before the 3d day of March, 1811, so revoke or modify her edicts as that they should cease to violate the neutral commerce of the United States, then the President should issue his proclamation that the restrictions imposed by the said act would cease in relation to the nation thus revoking or modifying her decrees.—(2 *Stat. at Large*, p. 605.)

In compliance with the above act, the President of the United States on the 2d of November, 1810, issued his proclamation, declaring :

“And whereas it has been officially made known to this government that the edicts of France, violating the neutral commerce of the United States, have been so revoked as to cease to have effect on the 1st of the present month :

“Now, therefore, I, James Madison, President of the United States, do hereby proclaim that the said edicts of France have been so revoked, as that they ceased on the said first day of the present month to violate the neutral commerce of the United States ; and that from the date of these presents all the restriction imposed by the aforesaid act shall end and be discontinued in relation to France and their dependencies.”

Such is the proclamation upon which the claimant relies, and upon the assurance of which he alleges his vessel cleared for the port of Bordeaux, in France. The purpose of the proclamation was alone to suspend the operation of the act of Congress referred to, so far as French vessels were concerned, and permit such to enter “the harbors and waters under the jurisdiction of the United States.” It gave no assurance to vessels bound to foreign ports of protection against “the British orders in council,” but just the opposite. It clearly announces that France having modified her edicts, French vessels were to be admitted into our ports. England not having modified her “orders in council,” English vessels remained under the restrictions of the law of Congress. This is made clear in the proclamation itself, and the owners of the “Eleanor” must have had full knowledge of the hazards of the voyage ; at any rate, the proclamation offered no assurance of protection against British cruisers.

Your committee, therefore, conclude that the petitioner has no claim against the government, and report back the petition, with a recommendation that the prayer of the petitioner be not granted.